

Application No. 10/089,841
Amendment Dated 10/14/2005
Reply to Office Action of June 14, 2005

REMARKS/ARGUMENTS

By this Amendment, claims 25-26 are canceled, and claims 17 and 21 are amended. Claims 17-24 and 27-33 are pending.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Amended claim 17 is based on former claims 17, 25 and 26. Therefore, claims 25 and 26 are canceled.

In addition to the limitations incorporated from claims 25-26, claim 17 is amended to specify that adhesion of the flexible compartment layer to the base and the cover to the flexible compartment layer is automatic. The basis for the amendment is given in the specification on page 8, second full paragraph: "The stacking arrangement of base part and sample carrier can be modified according to the present invention to the extent that a cover, which again is fixed by automatic adhesion relative to the sample carrier, is applied to the sample carrier..." Although this paragraph refers to the fixing of the cover by automatic adhesion relative to the sample carrier, the word "again" is clearly directed to the same fixing mechanism by automatic adhesion between the base and the flexible compartment layer.

Claim 21 is amended to clarify that by thickness of about 150 μm , the thickness of the cover glass is meant and not the thickness of the whole reaction substrate as indicated in Paragraph 7 of the Office Action.

Rejections under 35 U.S.C. § 102

Claims 17-20, 22-25 and 29-33 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,299,920 to Peters. This rejection is respectfully traversed.

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Peters describes a receptacle for cell cultures or biological tests comprising a base plate (3) and a wall member (1) to form probe chambers (2) joined in detachable and liquid-tight manner to the base plate by adhesion. After being filled with the suspension of cells to be cultivated, a cover for the chambers (2) is optionally provided. It may fit loosely and be provided with vent studs and an overlapping edge, or it may be held to the wall section by adhesion and thus close the chambers (2) in the same way that the base plate (3) is closed on its underside (see column 3, lines 36 to 47). A cover with penetration openings for supplying samples to the chambers or for removing samples from the chambers is not shown. Thus, Peters fails to identically disclose each and every limitation of base claim 17.

Accordingly, reconsideration and withdrawal of the anticipation rejection over Peters are respectfully requested.

Claims 17, 18, 25, 26 and 29-33 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,441,793 to Elkins. This rejection is respectfully traversed.

Elkins discloses an evaluation slide for viewing liquid specimens. The evaluation slide is shown in an exploded perspective in Fig. 3 and comprises three layers: a base layer (23), a wall layer (24) and a cover layer (25), with openings (17-22) laminated into a unitary slide. The base and the wall layers are laminated by conventional techniques including adhesive, heat or pressure (column 3, line 36-41), whereas the cover layer is permanently affixed to the side walls of the wall layer (column 1, lines 65-66). An automatic adhesion for fixing of the layers is not described. Thus, Elkins fails to identically disclose each and every limitation of base claim 17.

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Accordingly, reconsideration and withdrawal of the anticipation rejection over Elkins are respectfully requested.

Claims 17-19 and 29-33 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,798,706 to Brigati. This rejection is respectfully traversed.

Brigati discloses a device for holding liquid samples comprising a rigid base and an elastomeric member with samples holes for liquid droplets as illustrated in Fig. 1. This construction has the major disadvantage that the rigid base, e.g., glass, only functions as a support for the elastomeric member without being fixed by automatic adhesion to it. The elastomeric member lays freely movable on the rigid base so that a sealing against the elastomeric member, with respect to the liquid sample probes inside, cannot be ensured. To solve this problem, the rigid base (162) in Fig. 3A-3C has upstanding walls (161) which surround and align the elastomeric member (164) (see column 4, lines 14-23). Alternatively the elastomeric member is sealed to the rigid base (claim 2). An automatic adhesion of the elastomeric member to the rigid base without sealing or upstanding walls of the rigid base is not shown.

Thus, Brigati fails to identically disclose each and every limitation of base claim 17.

Accordingly, reconsideration and withdrawal of the anticipation rejection over Brigati are respectfully requested.

Rejections under 35 U.S.C. § 103

Claim 21 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peters, Elkins or Brigati in view of U.S. Patent No. 6,645,434 to Muramatsu et al. This rejection is respectfully traversed.

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Regardless of whether or not the secondary reference, Muramatsu et al., discloses a cover glass having a thickness of about 150 μ m, it still does not remedy the aforementioned deficiencies of the primary references to identically disclose each and every feature of the claimed invention.

The proposed combination of Peters and Muramatsu et al. fails to show a cover with penetration openings for supplying samples to the chambers or for removing samples from the chambers, as required by claim 21.

The proposed combination of Elkins and Muramatsu et al. fails to show automatic adhesion for fixing of the layers together, as required by claim 21.

The proposed combination of Brigati and Muramatsu et al. fails to show automatic adhesion, as required by claim 21.

Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 21 are respectfully requested.

Claims 27-28 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peters, Elkins or Brigati in view of U.S. Patent No. 6,037,168 to Brown. This rejection is respectfully traversed.

Regardless of whether or not the secondary reference, Brown, discloses channels, it still does not remedy the aforementioned deficiencies of the primary references to identically disclose each and every feature of the claimed invention.

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The proposed combination of Peters and Brown fails to show a cover with penetration openings for supplying samples to the chambers or for removing samples from the chambers, as required by claims 27-28.

The proposed combination of Elkins and Brown fails to show automatic adhesion for fixing of the layers together, as required by claims 27-28.

The proposed combination of Brigati and Brown fails to show automatic adhesion, as required by claims 27-28.

Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 27-28 are respectfully requested.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Please charge or credit our
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